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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,024	04/15/2004	John G. Catenacci	00724.P1US	9086

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EXAMINER

MAMMEN, NATHAN SCOTT

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 02/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/826,024

Applicant(s)

CATENACCI ET AL.

Examiner

Nathan S Mammen

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,209,068 to Corsentino.

The Corsentino '068 patent discloses a tire track remover comprising a blade frame (39) having a bend, a blade (31) having a concave front side, an attachment means (27, 43, 45), a height adjustment means (pivot point 21 and associated structure) and a pressure adjustment means (51) for varying the downward pressure exerted by the blade assembly. Note: The road paving vehicle of the instant claims only represents the intended use of the tire track remover; the tire track remover of the Corsentino '068 patent is inherently capable of being utilized on a road paving vehicle.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,427,781 to Buhler et al.

The Buhler '781 patent discloses a tire track remover comprising a blade frame (32, 33) having a bend, a semi-flexible (inherent) blade (34) forming a concave front (See Fig. 5 – blades 34 form a concave front), an attachment means (56) attaching the blade assembly to a vehicle, a

Art Unit: 3671

height adjustment means (18, 20, 22) for adjusting the height of the blade assembly, and a pressure adjustment means (18, 28) for adjusting the downward pressure of the blade assembly.

Regarding claims 2: The height adjustment means comprises parallel scissors assembly (20, 22).

4. Claims 1, 4, 5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,262,752 to Parish.

The Parish '752 patent discloses a tire track remover comprising a blade frame (38) having a bend, a semi-flexible blade (14) having a concave front, an attachment means (62, 64), and a height and pressure adjustment means (52, 54, 50). The blade assembly includes pivot means (42) for allowing side-to-side rocking and a strut member (44) for attachment to the height adjustment means (50, 52, 54). The strut member has an arcuate hole (generally at 76) for attaching the strut to the blade attachment means.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,209,068 to Corsentino or, alternatively, U.S. Patent No. 6,427,781 to Buhler et al in view of U.S. Patent No. 3,357,499 to Finneyfrock.

The Corsentino '068 and Buhler '781 patents disclose the claimed invention, as stated above in paragraphs 2 and 3, respectively. What the Corsentino and Buhler patents do not

Art Unit: 3671

disclose is that the pressure adjustment means comprises a box for receiving weights. However, the Finneyfrock '499 patent demonstrates that it was well known in the ground-working art to provide a pressure adjustment means in the form of a box (72) receiving weights (20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the Corsentino or Buhler tire track removers with a box and weights pressure adjustment means as taught by the Finneyfrock patent in order to provide a very simple way of providing downward pressure.

Conclusion

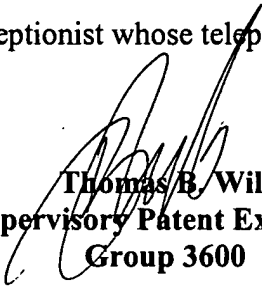
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Mammen whose telephone number is (703) 306-5959. The examiner can normally be reached Monday through Thursday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at (703) 308-3870. The fax number for this Group is (703) 872-9306.

Art Unit: 3671

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-1113.



Thomas B. Will
Supervisory Patent Examiner
Group 3600

NSM
2/2/05

Nathan S. Mammen